

MINUTES OF THE REGULAR MEETING OF THE COUNCIL OF THE TOWN OF WARRENTON  
HELD ON JULY 13, 2004

The regular meeting of the Council of the Town of Warrenton was held on July 13, 2004 in the Town Council Chambers.

Councilmembers present: George B. Fitch, Mayor, presiding; David A. Norden, Vice Mayor, Councilmen Birge S. Watkins, John V. Albertella, John E. Williams, Dennis M. Sutherland, Terrence L. Nyhous and John S. Lewis.

Also present: Kenneth L. McLawhon, Town Manager, Whitson Robinson, Town Attorney; and Evelyn J. Weimer, Town Recorder.

The Mayor called the meeting to order and invocation was given by Councilman John S. Lewis.

**CITIZENS TIME.**

Recognition of Mackenzie McDaniel-Neff

Five-year-old Mackenzie McDaniel-Neff was recognized by the Town of Warrenton, Fauquier County Emergency Services, the Warrenton Volunteer Fire Department and the Fauquier County Firemen's Union for calling 9-1-1 to obtain help for her mother for a medical emergency.

**Dr. Joshua Jackim**

Dr. Jackim, Woods at Warrenton resident, came forward to express concern for the water and sewer rates for the Woods at Warrenton. He commented concerning the history of the out of Town rates. He stated that the residents were unaware of the additional 50% added to the water and sewer bills when residents purchased their homes. He stated that the additional water usage for outdoor uses does not enter into the sewer system. He requested that a winter and summer rate be established, that a single water and sewer rate for all users of the Town's water be established, and that inexpensive second meters be installed that would be used solely for outdoor usage. He further requested that the Council review the current water and sewer rates.

**Dr. Douglas.**

Dr. Douglas reiterated that the residents felt that the rates were not fair and that they should be corrected.

Ms. Dawn Arruda asked that those Woods at Warrenton residents in attendance to stand. Numerous residents stood.

Adoption of Goals/Objectives as Established by the Governing Body at its July 7, 2004 Retreat.

The following Goals/Objectives as established by the governing body at its July 7, 2004 retreat were presented for consideration:

**Warrenton Town Council Retreat**

**July 7, 2004 - Airlie Conference Center**

## **WARRENTON TOWN COUNCIL GOALS**

**Keeping Warrenton Unique**

**Responsible Growth to Build-Out**

**More Recreational and Leisure Choices**

**Polished, Vibrant and Historic Downtown**

**Town Government as a Business**

## **WARRENTON TOWN COUNCIL GOALS AND OBJECTIVES**

### **Goal 1: Keeping Warrenton Unique**

#### Objectives:

1. Preserve Our Small Town Charm and Character
2. Keep Development in Character of Warrenton - Our Plan, Standards
3. Keep Commercial and Retail Areas Vital and Attractive
4. Preserve History, Historic Structures, and Heritage
5. Create Attractive Gateways and Corridors
6. Preserve Our Natural Resources and Scenic Views

### **Goal 2: Responsible Growth to Build-Out**

#### Objectives:

1. Keep Infill Consistent with Warrenton's Plans and Character
2. Implement Comprehensive Plan, Zoning Ordinance and Development Policies
3. Enforce and Follow Development Standards and Ordinances
4. Minimize Impact of Border Growth
5. Limit Utilities Extension Based Upon What is Best for the Town of Warrenton

### **Goal 3: More Recreational and Leisure Choices**

#### Objectives:

1. Develop Recreational Complex
2. Explore More Leisure and Recreational Choices
3. Develop Greenways and Trails for Public Uses
4. Develop Greenbelt as Linear Park

#### **Goal 4: Polished, Vibrant and Historic Downtown**

##### Objectives:

1. Preserve Downtown's Historic Character, Buildings, Homes, Feeling
2. Provide Adequate, Convenient Parking
3. Promote Downtown as a Tourist Destination
4. Maintain Traditional Retail on Ground Level
5. Create More Residential Opportunities

#### **Goal 5: Town Government as a Business**

##### Objectives:

1. Maintain Organization Culture Based on Business Approach - Town in the Service Business
2. Provide Town Services Based Upon Citizen Needs, Add Value to their Lives
3. Deliver Cost-Effective Town Services While Recognizing New Growth Implications
4. Insure a Cost-Conscious Approach by Employees to Town Services, Programs
5. Reduce Duplication of Government Services: Town, County
6. Enhance Town-County Efforts to Achieve Mutual Goals

#### **WARRENTON TOWN COUNCIL BEDROCK PRINCIPLES**

- Maintain Current Town Boundaries
- Insure Personal Approach to Serving Citizens
- Maintain Low Tax Rate and User Fees
- Insure Current Water and Sewer Capacity and Quality
- Abide by Water/Sewer Agreements
- Preserve Our Historic Districts
- Expand Tourism
- Support Business Community
- Preserve Our Small Town Character and Feeling
- Support Planned, Orderly Growth

#### **WARRENTON TOWN COUNCIL OPERATING GUIDELINES**

1. Council Members may use the Mayor as a sounding board or translator where an issue of conflict is emerging.
2. Council Members will channel requests for information and assistance through the Town Manager and apply common sense in dealing with routine matters.
3. Information for Council Members will be distributed in an equal and timely fashion.
4. Council Members will avoid putting any statements in an e-mail that they would be unwilling to publish in the newspaper.

5. Council Members or staff members will insure that the Council is well prepared for good decision-making by providing preparatory documents well before their consideration.
6. Council Members will network and share information and ideas on personal interest items ahead of time to avoid surprises.
7. In its policy role, the Council will provide direction about what it wants done (and when, if there's a when) and then leave it to the staff to manage and complete.
8. Council Members will handle administrative issues with the Town Manager and avoid using the Council's time for these efforts.
9. Council will insure that the public sees that adequate time and consideration for decision-making has been given to significant and/or controversial issues.
10. Council Members will strive to speak with one voice when decisions are made; when you speak as one, you are speaking as a citizen.
11. While Council Members may differ publicly on policy issues, they will strive to avoid criticizing other Members personally in the media and will present their arguments in ways that are respectful of others' opinions.
12. Council will seek to find and build on the common interests that it has with the County so as to achieve mutual goals.
13. Council Members will avoid making commitments to County elected officials that preempt the Council's official decision or position on an issue.
14. Council will make every effort to inform and educate the public about its work.
15. Council Members will treat each other with respect and be aware of these guidelines:
  - Remember that each person has his own point of view and listen to it respectfully
  - When you are outvoted on an issue, avoid taking it personally
  - Civility goes a long way – make it a habit
  - After the vote is taken, leave it behind and leave as colleagues
  - Be prepared to change your mind

On a motion by Mr. Nyhous, seconded by Mr. Williams, the Goals/Objectives as established at Council's July 7, 2004 retreat were adopted on a 7-0 Council vote (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

Adoption of Organizational Resolutions - Dates of Meetings.

The following resolution was presented for consideration:

**RESOLUTION OF THE ORGANIZATIONAL MEETING  
OF THE TOWN COUNCIL FOR THE TOWN OF WARRENTON**

**WHEREAS**, the Town Council for the Town of Warrenton is meeting in its organizational session and desires to adopt certain resolutions for the organization of its current term; and

**WHEREAS**, the Town Council for the Town of Warrenton desires to establish its meeting dates for its coming term; and

**WHEREAS**, the Town Council met at its regularly scheduled meeting on July 13, 2004, and, pursuant to the general laws of the Commonwealth, desires to adopt the following resolution.

**NOW, THEREFORE BE IT RESOLVED** by the Town Council for the Town of Warrenton that the members of Town Council shall meet in regular session on the second (2nd) Tuesday of each month at 7:00 p.m. at Town Hall, 18 Court Street, Warrenton, Virginia, unless otherwise provided, pursuant to Section 15.2-1416 of the Code of Virginia, 1950, as amended, to wit:

Tuesday, July 13, 2004  
Tuesday, August 10, 2004  
Tuesday, September 14 2004  
Tuesday, October 12, 2004  
Tuesday, November 9, 2004  
Tuesday, December 14, 2004  
Tuesday, January 11, 2005  
Tuesday, February 8, 2005  
Tuesday, March 8, 2005  
Tuesday, April 12, 2005  
Tuesday, May 10, 2005  
Tuesday, June 14, 2005

Tuesday, July 12, 2005  
Tuesday, August 9, 2005  
Tuesday, September 13, 2005  
Tuesday, October 11, 2005  
Tuesday, November 8, 2005  
Tuesday, December 13, 2005  
Tuesday, January 10, 2006  
Tuesday, February 14 2006  
Tuesday, March 14, 2006  
Tuesday, April 11, 2006  
Tuesday, May 9, 2006  
Tuesday, June 13, 2006

On a motion by Mr. Nyhous, seconded by Mr. Albertella, the resolution was adopted on a 7-0 vote (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

Election of Vice Mayor.

On a motion by Mr. Watkins, seconded by Mr. Albertella, Mr. Norden was elected Vice Mayor on a vote of 7-0 (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

Committee and Commission assignments.

The following Committee assignments were made by the Mayor.

## COMMITTEE APPOINTMENTS

<p style="text-align: center;"><b><u>Finance Committee</u></b></p> <p>Birge S. Watkins, Chairman John V. Albertella John S. Lewis, Jr. Terry L. Nyhous</p>	<p style="text-align: center;"><b><u>PD 9 Representative</u></b></p> <p>John V. Albertella</p>
<p style="text-align: center;"><b><u>Utilities Committee</u></b></p> <p>Terry L. Nyhous, Chairman John V. Albertella David A. Norden</p>	<p style="text-align: center;"><b><u>Town Transportation Safety</u></b></p> <p>Birge S. Watkins Dennie M. Sutherland John V. Albertella Terry Nyhous (private sector member)</p>
<p style="text-align: center;"><b><u>Police Committee</u></b></p> <p>John S. Lewis, Jr., Chairman John V. Albertella Birge S. Watkins John E. Williams</p>	<p style="text-align: center;"><b><u>EDAC</u></b></p> <p>(Joint EDAC- John E. Williams Terry L. Nyhous)</p>
<p style="text-align: center;"><b><u>Public Works Committee</u></b></p> <p>John S. Lewis, Jr, Chairman. Dennie M. Sutherland</p>	<p style="text-align: center;"><b><u>Planning Commission (ex-officio)</u></b></p> <p>Birge S. Watkins</p> <p style="text-align: center;"><b><u>Architectural Review Board (ex-officio)</u></b></p> <p>Dennie M. Sutherland</p>
<p style="text-align: center;"><b><u>Lineweaver Technology Park Committee</u></b></p> <p>John E. Williams</p>	<p style="text-align: center;"><b><u>Recreation Committee</u></b></p> <p>Dennie M. Sutherland, Chairman Samuel B. Tarr (citizen representative at-large) Mayor George Fitch John V. Albertella Birge S. Watkins</p>
<p style="text-align: center;"><b><u>Airport Committee</u></b></p> <p>John S. Lewis, Jr.</p>	<p style="text-align: center;"><b><u>Public Information Committee</u></b></p> <p>John V. Albertella, Chairman John S. Lewis, Jr. John E. Williams</p>
<p style="text-align: center;"><b><u>Joint Communications Board</u></b></p> <p>John V. Albertella John E. Williams</p>	<p style="text-align: center;"><b><u>Liaison Committee</u></b></p> <p>Birge S. Watkins Terry L. Nyhous John E. Williams</p>

Mr. Lewis noted that ex-officio members should not be voting members. Council, by consensus, agreed that this be a requirement of an ex-officio member.

## REGULAR MEETING

### PUBLIC HEARINGS.

Special Use Permit #04-04. An application for construction of a single-family dwelling with a walk-out basement on slopes greater than the 25% maximum as identified in Article 2, Section 15 of the Town of Warrenton Zoning Ordinance. The property is located at 175 Winchester Street (GPIN #6984-35-2067) and is currently vacant.

The Mayor opened the public hearing at 7:30 p.m. and called upon the Planning Director to give his staff report.

Mr. Mothersead indicated that the property was located at 175 Winchester Street and set on slopes that start 50-60 feet back from the front of the property and continued to the back of the property. He stated that the property was zoned predominantly R-6, with a small portion in the R-10 district. He further stated that the request was to build one dwelling on the property which would be set back 31-36 feet from the road frontage and the entire front wall of the house would also act as a retaining wall. He noted that the Planning Commission had concluded that this was the best potential use and density for the property and staff recommended two conditions for approval of the special use permit (1) The property owner/agent scheduled bi-weekly inspections for E&S control and (2) the house construction must include a structural wall on the uphill side in accordance with the soils and engineering reports provided with the application dated January 27, 2004 and March 11, 2004, respectively.

The Mayor asked if Council had questions. Mr. Nyhous indicated he did not think he understood incorporating a structural wall into a dwelling. Mr. Mothersead stated that there would be a basement and the front part of the basement wall would be mostly subgrade and would be designed to hold back the erosion potential in addition to normal soils.

The Mayor called upon the applicant.

#### **Mr. Domenick Minsione.**

Mr. Minsione, Mastercraft Homes, noted that they had taken a lot of time in locating the home and there was no other place to locate the home. He indicated that there would be two driveway entrances.

The Mayor called for citizens to speak in favor or against the application. There being no citizens wishing to speak for or against the request, the Mayor closed the public hearing at 7:35 p.m.

Mr. Watkins moved approval of Special Use Permit #04-04, an application for construction of a single-family dwelling with a walk-out basement on slopes greater than the 25% maximum as identified in Article 2, Section 15 of the Town of Warrenton Zoning Ordinance, with the two recommendations of staff: 1) The property owner/agent scheduled bi-weekly inspections for E&S control and 2) the house construction must include a structural wall on the uphill side in accordance with the soils and engineering reports provided with the application dated January 27, 2004 and March 11, 2004, respectively. Mr. Norden seconded the motion.

Mr. Nyhous stated he had viewed the site and that it would be a difficult construction.

Mr. Lewis asked the sight distance and Mr. Mothersead responded that there would be over 350 feet of sight distance in both directions but that the developer had agreed to install a driveway that would be basically a one-way in and one-way out so that vehicles would not back out on Winchester Street.

On a vote of 7-0 (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis) the motion was approved, as presented.

Special Use Permit #04-05. A request to operate a Family Day Care Home facility at 171 Fallen Leaf Court (Lot 52; GPIN #6984-63-9190). The property is zoned R-10 Residential and the use permit is requested under Section 8-1.2 of the Warrenton Zoning Ordinance which provides the opportunity for daily care for no more than six (6) children, in addition to those children related to the resident. The Applicant is Karla Kolb and the dwelling is under construction in the Edgemont Subdivision.

The Mayor opened the public hearing at 7:40 p.m. and called upon the Planning Director.

Mr. Mothersead noted that the property was located in Edgemont Subdivision and the applicant was requesting permission to have a daycare in her home, zoned R-10. He indicated that the original request was for six children but since state licensing and certification would be required, the number of children was reduced to five children.

He stated the homeowner was asked to designate which rooms would be used for daycare access and that staff had responded with suggestions during construction.

He further stated that the Homeowners Association for the subdivision prohibited non-residential use of the homes and, therefore, the homeowner appealed the decision and was granted permission to have a daycare.

Mr. Mothersead noted that staff recommended that child care be provided to no more than five persons, with hours between 6:30 a.m. and 6:00 p.m., the dwelling be built with a double driveway to accommodate at least four vehicles off of the street, a designated area for outdoor activity shall be provided in the rear yard only with fencing provided for that area or the entire rear yard, no signage other than provided for by ordinance would be allowed, and a letter of certification from the Homeowner's Association that the family day care use is allowable in the subdivision be provided. He explained that the Planning Commission had voted 3-2 to approve the request.

Mr. Albertella asked how many homes were planned and how many were occupied. Mr. Mothersead responded that units on each side were occupied and the subdivision only has four lots unsold at this time and all others are occupied or currently under construction.

Mr. Albertella asked whose authority the Homeowners Association was under. Mr. Mothersead stated that the developer was head of the Homeowners Association at the present time.

Mr. Lewis noted that in the past when Council has granted a special use permit for a daycare there was a stipulation that the special use permit be surrendered upon selling of the dwelling. Mr. Lewis asked that a representative of Richmond American indicate when the Homeowners Association would be controlled by the homeowners.

Mr. Norden stated he was also concerned that the developer was representing the homeowners and not the residents of the neighborhood.

Mr. Watkins noted that there was discussion at the Planning Commission of a "sunset provision" and asked the Planning Director if there was anything that could be done. Mr. Mothersead stated that a use permit often exercises a time restraint and he would have to confer with the Town Attorney about adding a "sunset provision" based on ownership.



Mr. Norden stated that the last application for a daycare approved by Council had a voluntary condition from the applicant to surrender the special use permit if the daycare cease or the dwelling was sold.

Mr. Albertella asked if the applicant intended to conduct a formal full disclosure of the nature of the business activity on the property in so far as pending sales. Mr. Mothersead thought that real estate agents would be required to provide adjacent owners with that information. Mr. Albertella asked if it was a legal or ethical requirement. Mr. Mothersead felt it was a legal requirement.

The Town Attorney noted that if there was an existing homeowners association then they would be required to have a homeowners packet and they could put the information in that packet. Mr. Albertella asked if that had been volunteered and Mr. Mothersead responded that the house on each side of the applicant's dwelling has been settled on.

Mr. Albertella stated that it was his understanding from his own attorney that it was not a legal requirement. The Town Attorney stated it was not but there was a way you could do it.

Mayor Fitch called upon the applicant to address Council.

**Ms. Karla Kolb.**

Ms. Kolb stated she was a teacher who currently works at Bull Run Middle School and she wanted to stay home with her son. She noted that she had approached some neighbors and she would be keeping one child. Mr. Lewis asked if time was of the essence and Ms. Kolb responded that she had quit her job and was on family leave. She noted that she would voluntarily give up the permit once the operation of the daycare is ceased.

The Mayor called for citizens to speak against or in favor of the request. There being no citizens wishing to speak, the public hearing was closed at 7:55 p.m.

Mr. Lewis asked the Richmond American representative to address Council regarding the timeframe when the homeowners association would be turned over to the residents.

**Mr. Bob Burr.**

Mr. Burr thought the homeowners association would be turned over somewhere around 2/3 ownership in the community and he felt that would be in the fourth quarter of this year.

Mr. Lewis moved that the application be tabled until the homeowners control the homeowners association and Mr. Albertella seconded the motion. Mr. Lewis noted that he encouraged Ms. Kolb to reapply for a special use permit.

On a vote of 7-0 the motion passed (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

Ordinance 2004-5, an Ordinance Updating and Amending Chapter 10, "Motor Vehicles and Traffic" Section 10-2 Entitled "Adoption of State Laws" of the Code for the Town of Warrenton to Incorporate Changes in State Law Effective July 1, 2004 and subsequent changes. Whitson W. Robinson, Town Attorney.

The Mayor opened the public hearing at 7:58 p.m.

The Town Attorney noted that the ordinance would adopt the amendments made by the legislature.

The Mayor called for citizens to speak for or against the ordinance. There being no citizens wishing to speak, the public hearing was closed at 7:59 p.m.

On a motion by Mr. Lewis, seconded by Mr. Williams, Ordinance 2004-5, an Ordinance Updating and Amending Chapter 10, "Motor Vehicles and Traffic" Section 10-2 Entitled "Adoption of State Laws" of the Code for the Town of Warrenton to Incorporate Changes in State Law Effective July 1, 2004 and subsequent changes was adopted on a 7-0 vote (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

#### **CONSENT AGENDA.**

- a. Approval of the Council minutes of the regular meeting of June 8, 2004.
- b. Financial statement and staff reports and Board and Commission minutes.
  - 1) June statement of accounts paid.
  - 2) Financial statement for period ending June 30, 2004.
  - 3) Miscellaneous staff reports.
  - 4) Minutes of Planning Commission meeting held on April 21, 2004.
- c. Receive delinquent real estate and personal property tax list.
- d. Consideration of request of downtown merchants to hold their annual sidewalk sale on Saturday, August 21, 2004.

On a motion by Mr. Watkins, seconded by Mr. Norden, the Consent Agenda was unanimously approved (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

#### **NEW BUSINESS.**

Richard's Kingsbridge South – Final Plat. A request for a seven (7) lot subdivision for townhouse development brought by Arlington Builders, Inc. of The Plains, Virginia. The property is 1.0 acres located in the RT Residential Townhouse District. It is adjacent to the existing Kingsbridge Townhouse development on Falmouth Street.

The Mayor called upon the Planning Director. Mr. Mothersead indicated that the request was for the completion of the development under construction off of Kingsbridge Court that is a one-acre parcel adjacent to the existing Kingsbridge Court zoned R-T. He stated there was a provision in that zoning for up to seven units per acre and that is what is being requested by the applicant. He further stated that it is oriented so that it appears it completes the development and that at the time the original development was created there was a public road created (an access stub) off of Falmouth Street and it goes to the property line. He noted that as part of the development there were discussions which included landscaping and buffering with the adjacent Mid-County Farm Service property but the primary issue was stormwater management. Mr. Mothersead stated that the developer was asked to seek an easement across the Mid-County Farm Service property and a storm sewer be provided. The Planning Director noted that parking is adequate and Falmouth Street could handle the traffic.

Mr. Albertella asked if there was a turnaround on the property. Mr. Mothersead responded that it was what was called a "hammerhead" or "backout" and would be ten feet so that there was adequate

distance to back out. He indicated that the Planning Commission wanted trash collection up front because it would not support trash truck turnaround.

The Mayor asked if the applicant would like to address Council.

**Mr. James Carson.**

Mr. Carson, Carson-Harris and Associates, could not add anything to what the Planning Director had presented.

On a motion by Mr. Nyhous, seconded by Mr. Albertella, the final plat of Richard's Kingsbridge South, as presented to Council, was approved on a vote of 7-0 (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis).

**UNFINISHED BUSINESS.**

Consideration of appointment of member to the Architectural Review Board to fill term expiring December 31, 2005.

Mr. Lewis nominated Robert L. Thorsen and Mr. Nyhous seconded the nomination. Mr. Albertella nominated Michael Baldauf and Mr. Norden seconded the nomination.

There being no other nominations, nominations were closed.

Mr. Thorsen received three votes (Williams, Nyhous, Lewis) and Mr. Baldauf received four votes (Norden, Watkins, Albertella, Sutherland). Mr. Baldauf was appointed to the Architectural Review Board to fill the position expiring December 31, 2005.

Consideration of resolution concerning Home Depot. Whitson W. Robinson, Town Attorney.

The Mayor thanked Mr. Norden and Mr. Watkins for their meetings and discussions with Home Depot representatives and also thanked Home Depot representatives for considering aesthetics of the building.

Mr. Norden stated that one issue that may be outstanding with the Home Depot building was a proffer for mitigating traffic impacts which was originally earmarked for a stop light at the intersection of Falmouth Street and Shirley Avenue. He indicated that the proffer amount was \$60,000. He stated that since that time there had been a lot of discussion about whether a stop light was the right solution for the traffic problems and he had spoken with Mr. Jim Downey, attorney for Home Depot and requested that the proffer be given but not specifically tied to the traffic signal. He requested that it be used by the Town in that or any other way it sees fit to solve the traffic issues on Falmouth Street, and/or the Falmouth Street/Shirley Avenue intersection.

Mr. Norden stated that Home Depot had agreed to that but that the improvements would have to be at the Falmouth Street/Shirley Avenue intersection. Mr. Watkins added that Home Depot had made a good architectural presentation and stated that parking had been reduced from 800 to 500 spaces.

Mr. Norden stated that the building would be all brick with pediments on the back side of the building to mimic what is on the front side of the building. He further stated that there would be a bermed landscaped buffer area along the back edge of the building and extend along the front side of the building with extra landscaping.

**Mr. Richard Keller.**

Mr. Keller, Transportation Consultant, Kellerco, stated that he had reviewed the traffic impact study for Fauquier County. He pointed out that Home Depot is working with Virginia Department of Transportation on the double left turn lanes into Alwington Boulevard and the signal would be modified.

Mr. Keller added that it is typical in his field of work to get cost sharing and make it as flexible as possible. He felt there was a complication in that there were other applications to be considered and that flexibility would be helpful.

Mr. Keller indicated that traffic could be projected in anticipation of various things happening at an intersection and to find out what impacts will be. Mr. Lewis asked if Mr. Keller felt the other applicants were proceeding on the correct path. Mr. Keller stated that he felt that Home Depot should allocate funding and how it is allocated is the issue and that a signal may not be warranted for a long time. He stated the intersection may need to be widened or need right of way.

Mr. Norden noted that one of the most significant issues dealing with the intersection is when Wal-Mart gained approval one of the things purposely done was to not give them access right across from Falmouth Street and their nearest entrance to Falmouth Street was made a right-in and right-out only for the purpose of trying to keep people from coming up Falmouth Street. Mr. Norden stated that perhaps a stoplight would not be wanted at the intersection because it would make it an easy avenue to Falmouth Street.

Mr. Norden asked Mr. Tucker if the \$60,000 was a 50 percent cost share for the signal. Mr. Tucker stated that it was up to 50 percent or \$60,000. He thought it was \$120,000 to \$150,000. He noted that when Wal-Mart contribution was considered, that it was less than what it would have been.

**Mr. James Downey.**

Mr. Downey, attorney representing Home Depot, stated that Home Depot has agreed to the \$145,000 utility connection fee, a proffer of \$25,000 for Fire and Rescue and the traffic impact proffer had been geared to Home Depot doing what was reasonable. He stated that the question was what was a reasonable time limit. He indicated that the bottomline was that Home Depot would be obligated only for a need that it generates. He indicated that since Home Depot would be doing lane changes on Alwington Boulevard he was unsure what need they would be generating and that the Falmouth Street/Shirley Avenue intersection had been looked at as perhaps needing a traffic signal. However, he indicated that past VDOT, the school, etc. that the County staff had indicated that they did not see how anything farther up could be attributed to Home Depot which needed improvement.

Mr. Downey noted that Home Depot was willing to proffer \$60,000 for a traffic signal and if it was not used for that purpose, then it could be used for other improvements at that intersection. He stated that Home Depot would continue to work toward an acceptable solution within the dollar amount stated and within the context of the question of whether they are generating the need. He reiterated that Home Depot would proffer \$60,000 for a period of five years for a traffic signal and if not used for a signal, then it could be used for other improvements at that intersection.

Mr. Lewis asked if the applicant would be more flexible for the funds to be used for another improvement. Mr. Downey stated he was not authorized to go farther than the proffer he stated.

Mayor Fitch urged Council to adopt the resolution concerning Home Depot and allow staff to work with Home Depot concerning the \$60,000 proffer for traffic improvements.

Mr. Nyhous stated he felt Council was being asked to commit to something and it is not known what is being considered. Mr. Watkins felt that Council would revisit the matter because the boundary adjustment was not being approved, but the resolution was asking the Manager to move forward.

Mr. Lewis moved that the following resolution be adopted with the understanding that the Town Attorney, staff, Mr. Downey, the applicant and the County work in concert to solve the problems, if and when they exist, and urged Mr. Downey to speak to the applicant to see if they would be more flexible in terms of the \$60,000 proffer.

**A RESOLUTION OF INTENT TO ENTER INTO AN AGREEMENT WITH THE COUNTY TO  
ADJUST THE BOUNDARY LINE BETWEEN THE TOWN AND THE COUNTY**

WHEREAS, Home Depot, USA, Inc. has proposed to construct a Home Depot on a portion of parcel number 6983-46-3320 of approximately 17 acres located in Fauquier County and adjacent to the boundary between the Town of Warrenton and the County; and

WHEREAS, the Town of Warrenton through its Town-County Liaison Committee and Utility Committee have both preliminarily and affirmatively agreed to consider an adjustment of the proposed site into the Town of Warrenton in order to permit the site to be served by the Town water and sewer; and

WHEREAS, both governing bodies acknowledge that the public interest would be better served by provision of Town water and sewer to the proposed Home Depot site; and

WHEREAS, on the 20<sup>th</sup> day of January 2004, the Fauquier County Board of Supervisors requested the Town of Warrenton enter into a boundary line adjustment arrangement with the County in order to adjust the Home Depot site into the Town of Warrenton upon the completion of the site plan currently being reviewed by the County; and

WHEREAS, on the 17<sup>th</sup> and 24<sup>th</sup> days of March, 2004, the County of Fauquier and the Town of Warrenton jointly published notice of their intention to adopt a boundary line adjustment agreement relocating the Home Depot parcel and a portion of Alwington Boulevard within the corporate limits of the Town; and

WHEREAS, on the 29<sup>th</sup> day of March 2004, the Fauquier County Board of Supervisors and the Town of Warrenton held a public hearing for the purpose of receiving public comment regarding the aforesaid boundary adjustment; and

WHEREAS, on the 21<sup>st</sup> day of June 2004, the Fauquier County Board of Supervisors passed a resolution authorizing the County administrator and the county attorney to execute all necessary documents to adjust the Town boundary to include the Home Depot parcel and a portion of Alwington Boulevard within the corporate limits;

THEREFORE, BE IT RESOLVED, that the Town Manager and the Town Attorney be authorized and directed to take all actions necessary to locate the Home Depot parcel within the corporate limits of the Town of Warrenton, including, but limited to, preparation, filing, and prosecution, jointly with the County of Fauquier, of a petition to adjust the boundaries of the County and the Town to include the Home Depot parcel and that portion of Alwington Boulevard all as shown on the plat attached hereto as Exhibit A within the corporate limits of the Town of Warrenton, subject to the approval of all Federal and State government authorities.

Mayor Fitch asked Mr. Lewis if he would add to the motion that the letter submitted by Home Depot dated July 13, 2004 be cited in the resolution where they offered \$25,000 toward the fire and rescue department and \$145,000 for the utility fee. Mr. Lewis stated that he would like to make that part of his resolution. Mr. Watkins seconded the motion.

The letter below was added to the resolution:

July 13, 2004

Kenneth L. McLawhon  
Town Manager  
Town of Warrenton  
P.O. Drawer 341  
Warrenton, VA 20188-0341

Re: The Home Depot USA., Inc., Warrenton, Virginia

Dear Ken:

Please be advised that the following terms are acceptable to Home Depot, USA, Inc. with respect to the agenda item anticipated for action on July 13, 2004:

1. Pursuant to the memorandum of April 29, 2004, from Edward B. Tucker, Jr., to you, the sum of \$145,005 is agreed as the utility connection fee.

2. A proffer totaling \$25,000, to be allocated as the Town may deem appropriate, between Fire and Rescue, is agreed, with the understanding that the \$25,000 is in full satisfaction of proffers contemplated by the Town's February 10, 2004, Resolution of Intent to Enter into an Agreement with the County to Adjust the Boundary Line Between the Town and the County.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & TERPAK, P.C.

James P. Downey

JPD/ic

cc: Tom Gallagher, Home Depot U.S.A., Inc.  
Richard Van Veldhuisen, Greenberg Farrow  
Jeremy Cohen

Mr. Keller added that he stood behind the matter of flexibility of the proffer and it was commonly done in other jurisdictions. He stated that problems often arise at intersections over a period of time and it is good to have a contribution toward that.

Mr. Downey noted that it was a reasonable request but he was only authorized to offer what was noted in the letter. He indicated he would have an answer prior to the next Council meeting.

On a vote of 7-0 (for: Norden, Watkins, Albertella, Williams, Sutherland, Nyhous, Lewis) the motion passed.

## REPORTS AND COMMUNICATIONS.

Report from Town Attorney. The Town Attorney indicated he had nothing further to report.

Report from the Town Manager. The Manager reported that the Recreation Committee could meet as soon as desired by the Chairman.

Report from the Transportation Safety Commission. Mr. Watkins noted that the Committee met and discussed speed humps/bumps and would be reporting to Council at the next meeting.

**COUNCILMEMBERS' TIME.**

Mr. Norden distributed information concerning the Mosby Foundation for Council review.

There being no further business, the meeting adjourned at 8:45 p.m.

Evelyn J. Weimer, Town Recorder